NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MAC No. 855 of 2014

1. Smt. Hadin Bai W/o Late Gopal Krishan Nayak Aged About 68 Years
2. Smt. Shanti Nayak D/o Late Rajendra Nayak Aged About 30 Years
3. Ku. Indra Nyak D/o Late Rajendra Nayak Aged About 12 Years Minor,
4. Khilendra Nayak S/o Late Rajendra Nayak Aged About 7 Years
   Appellants No.3 & 4 are Minor, Through - Natural Guardian Smt. Shanti Nayak, W/o late Rajendra Nayak. All are R/o Hikmipara, Jagdalpur, Distt. Bastar C.G.

---- Appellants

Versus

1. Kamlu Samrath S/o Dhaner Samrath Aged About 38 Years R/o Saanguda, P.S. Kodenga, Distt. Navrangpur (Orissa)
2. Khalil Kumar Chetti S/o Anand Kumar Chhetti R/o Dongebeda, P.S. Attigaon, Distt. Navrangpur (Orissa)
3. Branch Manager National Insurance Company, Jagdalpur, Distt. Bastar C.G.

---- Respondents

For Appellants	:	Shri Vikas Shrivastava, Advocate.
For Respondent No.3	:	Shri Dashrath Gupta, Advocate.

SB: Hon'ble Shri Justice P. Sam Koshy

Order On Board

06/07/2017

1. The present appeal has been filed against the award dated 26.06.2014 passed by the Motor Accident Claims Tribunal, Bastar (in short, the Tribunal) in Claim Case No.98 of 2013. Vide the said award, the Tribunal has awarded compensation of Rs.4,29,000/-to the claimants holding the driver, owner and insurer of the vehicle jointly and severally liable for payment of the compensation on account of death of deceased Rajendra Nayak, aged about 35 years.
2. Learned counsel for the appellants submits that he would confine his challenge to the extent of income not being properly taken into

consideration by the Tribunal while calculating the compensation. He submits that the deceased was running a Kirana Shop at Jagdalpur and that his monthly income has been claimed at Rs.15,000/- but the Tribunal has only taken the notional income of Rs.3000/- per month i.e. Rs.36000/- annual. Second ground being the amount paid under other heads also is extremely low i.e. Rs.45000/- whereas there are four dependents of the deceased and the said compensation under other heads also deserves to be enhanced suitably.

3. The insurance company however opposes the same and submits that the award does not warrant interference as the same appears to be fair and reasonable and have taken into consideration the entire facts and circumstances of the case while calculating the compensation.

4. Having considered the rival contentions put forth on either side and on perusal of records, what clearly reflects is the fact that the date of accident was 31.07.2010. It is any body's guess that in the month of July, 2010, even a labour going on daily work was getting somewhere around Rs. 200/- per day which would be about 6000/- in a month and since the deceased was running a Kirana shop and obviously his income would also had been in any case more than Rs.200/- a day. Therefore, the Tribunal ought to have taken in to consideration the minimum monthly income of the deceased as Rs.6000/- and not notional income of Rs.3000/- for the purpose of computing the compensation.

5. In this view of the matter, this court is of the opinion that the impugned award of Tribunal warrants interference. The same deserves to be and is accordingly ordered to be modified and enhanced. Therefore, this court holds the amount of compensation by assessing the income at Rs.6000/- in place of Rs.3000/- per month i.e. annual income of Rs.72,000/-.

6. After deducting 1/3rd of Rs.72,000/- of the deceased towards personal expenses, the claimant's annual income would be Rs. 48,000/-. By multiplying the claimant's annual income of Rs. 48,000/- with the multiplier of 16 as applied by the Tribunal, the amount of compensation under the head of loss of income and dependency would be Rs. 7,68,000/-. Likewise, this court also finds that compensation paid to the claimants on other heads also is on the lower side and the compensation under the other heads this court orders to enhance from Rs.45,000/- to Rs.1,00,000/. Thus, the claimants would become entitled for Rs. 8,68,000/- as compensation in place of Rs. 4,29,000/- as awarded by the Tribunal.

7. In view of foregoing, the appeal is allowed in part. The compensation of Rs. 4,29,000./- is enhanced to Rs. 8,68,000/- i.e. Rs.4,39,000/- over and above the amount awarded by the Tribunal. The above enhanced amount of compensation of Rs.4,39,000/- shall carry interest @ 6 percent per annum from the date of application till its actual payment. Rest of the award and the conditions mentioned in the award shall remain intact. The award stands modified to the above extent.

8. The respondent/National Insurance Company Ltd. is granted two months' time to deposit the enhanced amount of compensation of Rs. 4,39,000/- along with interest before the concerned Tribunal. No order asto costs.

Sd/-
(P. Sam Koshy)
Judge

inder